

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-TP-382
)	
C. Elton Crews, Inc.)	NAL/Acct. No.200332700004
Owner of Antenna Structure Registration Number)	
1204823)	FRN 0006-6405-10
Avon Park, Florida)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 29, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find C. Elton Crews, Inc., owner of antenna structure #1204823 in Avon Park, Florida, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful violation of 17.51 of the Commission's Rules (“Rules”).¹ Specifically, we find that C. Elton Crews, Inc. is apparently liable for failing to exhibit required medium intensity obstruction lighting on its antenna structure #1204823.

II. BACKGROUND

2. On July 26, 2002, agents from the FCC Enforcement Bureau, Tampa Office, observed during daylight hours that structure #1204823 was not illuminated per its assigned painting and lighting specifications in that no white medium intensity lighting was exhibited on the structure. Although the antenna structure was painted, coaxial cables mounted along the southwest side of the structure obstructed the visibility of the structure. Robert Crews of C. Elton Crews stated that, to his knowledge, no strobe lights had ever been exhibited during the day on the antenna structure. The Commission's Antenna Structure Registration (“ASR”) database showed that C. Elton Crews, Inc. owns the antenna structure. The structure's ASR specifies that the structure be lit with a medium intensity dual lighting system.

III. DISCUSSION

3. Section 17.51 requires that all high intensity and medium intensity obstruction lighting be exhibited continuously unless otherwise specified. On July 26, 2002, C. Elton Crews, Inc. failed to exhibit medium intensity obstruction lighting on structure #1204823 in accordance with its registration requirements.

¹ 47 C.F.R. § 17.51.

4. Based on the evidence before us, we find C. Elton Crews, Inc. willfully² violated Section 17.51 of the Rules by failing to exhibit required tower lights on its antenna structure #1204823.

5. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to exhibit obstruction lighting is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ C. Elton Crews, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.51 of the Rules by failing to exhibit required medium intensity obstruction lighting on its antenna structure #1204823.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, C. Elton Crews, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ See 47 C.F.R. § 1.1914.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this *NAL*, either in your response to the *NAL* or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to C. Elton Crews, Inc., P. O. Box 1117, Avon Park, Florida 33826-1117.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
Tampa Office, Enforcement Bureau

Attachment